

**BAKKER ATAMANUK**  
BARRISTERS & SOLICITORS

ALBERT J. BAKKER, B.A., L.L.B., Q.C.  
ROY W. ATAMANUK, B.A., L.L.B.  
CHARLES R. TAYLOR, B.A., L.L.B.  
PETER B. WENGLOWSKI, B.A., L.L.B.

FILE NO: **P-499**

**December 18th, 1989.**

Town of Pelham,  
P.O. Box 400,  
Fonthill, Ontario.  
LOS IEO.

**Attention; Planning Department.**

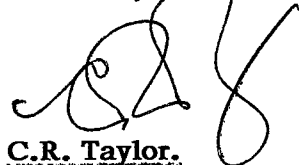
Dear Sirs:

Re: **Webley Construction Limited - Site Plan  
Agreement - 731 Church Street, Pelham.**

We are pleased to confirm that the site plan agreement on the above mentioned property was registered on the 14th day of December, 1989 as instrument #572193 and we enclose a duplicate registered copy for your files.

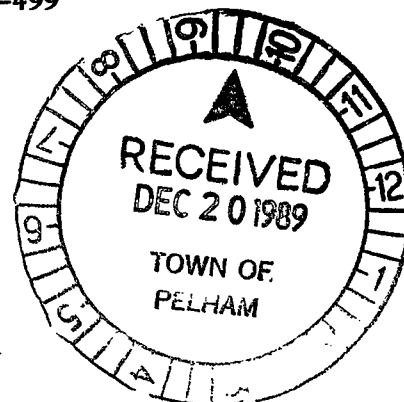
Yours very truly,

**BAKKER, ATAMANUK**



**C.R. Taylor.**

CRT:ce  
encls.



CANADA TRUST HOUSE  
60 JAMES STREET, ST. CATHARINES  
ONTARIO L2R 7J8 P.O. BOX 1328  
(416) 688-1520

572193

FOR OFFICE USE ONLY

572193

Number/Numéro  
Certificate Of Registration  
Certificat d'enregistrement

89 DEC 14 A9:42

Niagara South-  
SUD (59)  
WELLAND  
Land Registrar  
Registraireur

New Property Identifiers

Additional:  
See  
Schedule ☐

Executions

Additional:  
See  
Schedule ☐

(1) Registry ☒ Land Titles ☐

(2) Page 1 of 10 pages

(3) Property  
Identifier(s)

Block

Property

Additional:  
See  
Schedule ☐

(4) Nature of Document

SITE PLAN AGREEMENT

(5) Consideration

Nil

Dollars \$ Nil

(6) Description

Part of Lot 15, Concession 11, in the former  
Township of Pelham, now in the Town of Pelham,  
Regional Municipality of Niagara

(7) This  
Document  
Contains:

(a) Redescription  
New Easement  
Plan/Sketch ☐

(b) Schedule for:

Description ☒

Additional  
Parties ☐

Other ☒

(8) This Document provides as follows:

Site Plan Agreement (See Schedule Attached)

Continued on Schedule ☐

(9) This Document relates to instrument number(s)

TRANSFER 558715

(10) Party(ies) (Set out Status or Interest)

Name(s)

Signature(s)

Date of Signature  
Y M D

THE CORPORATION OF THE TOWN OF PELHAM

DEPUTY CLERK J. BERNARDI

1989 10 20

(11) Address  
for Service

P. O. Box 400, 20 Pelham Town Square, Fonthill, Ontario, L0S 1E0

(12) Party(ies) (Set out Status or Interest)

Name(s)

Signature(s)

Date of Signature  
Y M D

WEBLEY CONSTRUCTION LIMITED

INCOME TRUST COMPANY

1989 10 10  
1989 11 16  
I HAVE AUTHORITY TO SIGN THE COMPANY  
per: [Signature]  
Director of Mortgage Operations  
I HAVE AUTHORITY TO SIGN THE COMPANY

(13) Address  
for Service

c/o Bakker, Atamanuk, Canada Trust House, 60 James St., St. Catharines,  
Ontario, L2R 7J8 (Box 1328)

(14) Municipal Address of Property

731 CHURCH STREET

(15) Document Prepared by:

J. BERNARDI, DEPUTY CLERK  
Corporation of the Town of  
Pelham

P. O. Box 400  
20 Pelham Town Square  
FONTHILL, Ontario  
L0S 1E0

FOR OFFICE USE ONLY

Fees and Tax

Registration Fee

Total

THIS AGREEMENT made in triplicate this 17th. day of JULY  
1989 A.D.

BETWEEN:

THE CORPORATION OF THE TOWN OF PELHAM

Hereinafter called the "Town"

OF THE FIRST PART

- and -

WEBLEY CONSTRUCTION LIMITED

Hereinafter called the "Owner"

OF THE SECOND PART

- and -

INCOME TRUST COMPANY

Hereinafter called the "Mortgagee"

OF THE THIRD PART.

1. DEFINITIONS in this Agreement: -

(a) "TOWN CLERK" shall mean the Clerk of the Corporation of the Town of Pelham.

(b) "COUNCIL" shall mean the Council of the Corporation of the Town of Pelham.

(c) "CHIEF BUILDING OFFICIAL" shall mean the Chief Building Official of the Corporation of the Town of Pelham.

WHEREAS the Owner represents that it owns the land and premises described as Part of Lot 15, Concession 11, in the former Township of Pelham, now in the Town of Pelham, Regional Municipality of Niagara and more particularly described in Schedule "A" attached hereto ("the lands");

AND WHEREAS the Mortgagee of the Third Part holds a mortgage on the said lands;

AND WHEREAS the Owner is desirous of operating a contractor's yard for the continued rental of service space

con't.....

for automotive repair on the lands and in accordance with Schedule "B" attached hereto being plot plans filed in the office of the Town;

AND WHEREAS the Owner is desirous that By-Law No. 1136 be amended to permit the use of the said lands for the purpose of operating a contractor's yard for the continued rental of service space for automotive repair;

AND WHEREAS the Town agreed to amend said By-Law No. 1136 upon certain terms and conditions, which terms and conditions included, inter alia, the execution of a site plan agreement;

AND WHEREAS the Town is of the opinion that the proposed operation would not be proper and in the public interest unless assurances are given by the owner and Mortgagee that the uses and installations referred to in this agreement will be done in the manner set forth in this agreement.

NOW THEREFORE in consideration of the mutual covenants and agreements and conditions hereinafter contained and in consideration of the sum of One (\$1.00) Dollar payment of which is hereby acknowledged, the parties hereto covenant and agree as follows:-

1. The Owner agrees to develop, maintain and use the lands only in accordance with the terms and conditions contained herein and to the reasonable satisfaction of the Town.
2. The Owner agrees to perform any and all construction and installations on the said lands in accordance with the terms and conditions contained herein and as shown on Schedule "B"

con't.....

attached hereto and forming part of this agreement to the reasonable satisfaction of the Town.

And further, the Owner agrees not to perform any construction or installation on the said lands except in accordance with the terms and conditions contained herein and shown on Schedule "B" attached hereto forming part of this agreement and to the reasonable satisfaction of the Town.

3. This agreement is conditional upon the required rezoning by-law or other by-law being duly passed and lawfully in force, said condition being a condition precedent which cannot be waived by the Owner or by the Town. In the event that said condition is not fulfilled, then this agreement shall be null and void.

4. (a) The Owner shall keep the lands in a constant state of cleanliness and orderliness, with the Chief Building Official having the authority to determine whether the lands are clean and orderly, to the intent that no garbage, debris, stone, wood or similar material shall be deposited for whatever reason outside of the building except within the garbage bin shown on Schedule "B". If, in the opinion of the Chief Building Official, the property is not kept in such a clean and orderly manner, then the Owner, at its expense, shall, within thirty (30) days, put the property in such a condition as to satisfy the Chief Building Official.

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(b) The Owner shall maintain the existing buildings and any future buildings lawfully constructed or renovated to the satisfaction of the Chief Building Official.

(c) The outside storage of constructor's material, equipment and disabled vehicles shall be restricted to the compound/storage area shown on Schedule "B".

5. Where the Owner desires to reconstruct or renovate any existing building or buildings or construct any new building or buildings, the Town will issue a building permit subject to full compliance with all building and zoning requirements of the Town then in effect. Any such construction, reconstruction or renovations shall be subject to the terms of this agreement.

6. The Owner shall be required to obtain a signed permit from the Town prior to the erection of signs or posters on the lands.

7. (a) The Owner shall, at its own expense and in accordance with plans filed in the office of the Town, adequately landscape, plant and maintain all the lands required for building, parking or entranceway so as at all times to provide effective green areas for screening purposes and generally enhancing the appearance of the development. The landscaping and planting to be completed within twelve (12) months of the execution of this agreement.

(b) The Owner shall, at its expense, construct and maintain the fencing of the lands in accordance with the said plans. The fencing to be completed within twelve (12) months of the execution of this agreement.

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8. The Owner shall at all times provide adequate collection and disposal of garbage, sanitary refuse and industrial waste in accordance with the requirements and to the satisfaction of the Town, and in the event of the failure to do so, the Town, its servants or agents shall have the right to enter on the said lands and, at the expense of the Owner, do such collection and disposal and further shall have the right to recover the cost thereof by action or in like manner as municipal taxes. The Owner shall, in addition, provide properly screened storage space for the garbage bin in the location designated by the Town as shown on Schedule "B" and such enclosed storage space shall be of a design approved by the Town and be installed and operational within sixty (60) days of the signing of this Agreement.

9. The Owner, at its own expense, shall obtain the approval of the Ministry of the Environment for the treatment or removal of the existing underground gas storage tanks.

10. The Owner agrees that in addition to compliance with noise by-law number 681 (1981) of the Town, it shall not conduct noise generating activities outside the building or buildings after 2100 hours daily or inside the building between 2400 hours and 0700 daily.

11. (a) The Owner at all times will indemnify and save harmless the Town of and from all losses, costs, damages and injuries which the Town may suffer, be at or be put to for or by reason of or on account of the construction, maintenance or existence of any work done by the Owner, its contractors, servants or agents on the lands and such indemnity shall constitute a first lien and charge on the lands.

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(b) In the event of the failure of the Owner to carry out any of the provisions of this agreement, then the Town, its servants or agents shall, on fifteen (15) days' notice in writing of its intention, and forthwith in cases of emergency, have the right to enter on the said lands and, at the expense of the Owner do any such work provided for herein, and further shall have the right to recover the cost thereof by action or in like manner as taxes.

(c) The Owner shall at all times keep posted in the building or otherwise prominently displayed and visible from the outside, a notice indicating the ownership of the said building, a mailing address and telephone number of a person having authority to deal with all matters relating to the said buildings.

(d) The Owner shall not call into question directly or indirectly in any proceedings whatsoever in law or in equity or before any administrative tribunal, the right of the Town to enter into this agreement and to enforce each and every term, covenant and condition herein contained, and this agreement may be pleaded as an estoppel against the Owner in any such proceedings.

(e) Nothing in this agreement, shall relieve the Owner from all lawful requirements of the Town.

(f) The Owner covenants for itself, its successors and assigns, and the owners from time to time of the lands that the burden of the covenants contained in this agreement shall be deemed to be negative and shall run with and be binding upon the lands to and for the benefit of the Town and the Town lands.

con't...



(g) The Owner and Mortgagee agree to be bound by this agreement and consent to the registration of notice of this agreement against the lands. The Town and the Mortgagee agree that the Mortgagee, by its execution of this agreement, is postponing its prior interest in the lands in favour of this agreement. It is understood and agreed that the Mortgagee shall not be liable to perform the conditions of this agreement unless and until the Mortgagee becomes the owner or Mortgagee in possession of the lands pursuant to a foreclosure or exercise of power of sale.

(h) The Owner agrees that it shall, upon the sale or transfer by it of the said lands or any part or parts thereof, require the purchaser or transferee thereof, as a condition of such sale or transfer, to execute an agreement satisfactory in form to the Town solicitor, agreeing to assume this agreement and be bound by and to fulfill the terms, conditions and covenants herein set forth. The said assumption agreement shall be executed by the Town, the Owner and any such purchaser or transferee and mortgagee. Upon registration of the notice of the said assumption agreement on the title to the lands, the Owner herein shall be released from its duty to perform the conditions contained in this agreement.

12. It is declared that if any section, subsection, paragraph, subparagraph or part or parts thereof be declared by a court of law to be illegal or ultra vires, such part or parts shall be deemed to be severable and all parts hereof are declared to be separate, independent and enacted as such.

con't...

13. This agreement shall be in full force and effect from the above date unless and until rescinded or amended by agreement between the Owner and the Town.

14. This agreement shall be read with all changes of gender and number as the context may require.

15. The Owner hereby constitutes any successor in title with full authority to enter into any agreement or agreements with the Town to amend this agreement from time to time.

16. This agreement shall enure to the benefit of and shall be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns and successors in title.

IN WITNESS WHEREOF the parties hereto have hereunto affixed their respective seals attested to by the hands of their duly authorized officers.

CORPORATION OF THE TOWN OF  
PELHAM

PER: *Jud Collins*

Mayor

PER: *Murray Haskett*

Clerk

WEBLEY CONSTRUCTION LIMITED

PER: *[Signature]*

President

PER: *Robert Liley*

Secretary

INCOME TRUST COMPANY

PER: *[Signature]*

DIRECTOR OF MORTGAGE OPERATIONS

AND *[Signature]* 10936

PRESIDENT

8573

SCHEDULE "A"

Part of Lot 15, Concession 11 in the former Township of Pelham, now in the Town of Pelham, Regional Municipality of Niagara, more particularly described as follows:

COMMENCING at the south-westerly angle of said Lot 15;

THENCE north along the westerly limit of said lot, 464.8 feet to the place of beginning of the parcel to be described;

THENCE continuing north along the said westerly limit, 275 feet;

THENCE north 88 degrees 58 minutes east, 300 feet;

THENCE south parallel to the westerly limit of said lot, 275 feet;

THENCE south 88 degrees 58 minutes west, 300 feet to the place of beginning.



TRUTH, AASH OF 1ST	82,500 SF
RAISING CHINA DRIVE	28,000 SF
BRIDGING, STONE DRIVE	12,000 SF
PACIFIC, STONE DRIVE, TRAIL	27,000 SF
PACIFIC, SAKEN DRIVE	26,000 SF
RAISING, AVIATION AASH	18,000 SF

731 CHURCH ST. FENWICK  
PROPOSED SITE WORK